IN THE HIGH COURT OF JUDICATURE,
ANDHRA PRADESH
AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.3331 of 2005

Dated: February 08, 2007

Between:

Sri Santosh Vidyaniketan High School, Bhongir, Nalgonda District, rep. by its Secretary and Correspondent.

... Petitioner

And

The Government of Andhra Pradesh, rep. by its Principal Secretary (SE) Department, Secretariat Buildings, Hyderabad, and another.

... Respondents

Order:

Petitioner, a recognized High School, filed this Writ Petition seeking Mandamus to declare Memo No.20696/Ps-1/2004-1 School Education (PS) Department dated 10-01-2005, issued by the first respondent – Government, as illegal and arbitrary and a consequential direction to the respondents to admit the post of Junior Assistant in its school into grant-in-aid.

2. Petitioner-school, which was established during 1977, was later upgraded as High School during the academic year 1983-84 as per the orders of the Government in G.O.Rt.No.826 Education (F1) Department dated 05-08-1984. The case of the petitioner is that as per its request, the District Educational Officer, Nalgonda, vide proceedings dated
26-09-1992, recommended admission of certain posts to grant-in-aid, including the post of Junior Assistant, based on the teacher-pupil ratio. It is stated that though the District Educational Officer vide letter dated 08-12-1994 submitted proposals of grant-in-aid to the second respondent, no action whatsoever has been taken. When the post of Junior Assistant was not being admitted to grant-in-aid, petitioner had earlier filed W.P.No.6210 of 2003, in which, interim directions were granted by order dated 13-10-2003, directing the respondents to place the matter before the High Level Committee. While things stood thus, the impugned order has been passed rejecting the case of the petitioner for admission of the post of Junior Assistant to grant-in-aid on the ground that the appointment of one Mr. V. Venkateswar, as Junior Assistant in an unaided post, is not approved by the competent authority.

3. Heard learned counsel for the petitioner and learned Government Pleader for School Education for respondents.

4. Respondents have filed counter affidavit stating that the only objection for not admitting the post of Junior

Assistant to grant-in-aid is that appointment of Mr. V. Venktateshwar to the said post is not approved by the competent authority.

5. Admission of posts into grant-in-aid is governed by the provisions of A.P. Private Educational Institutions Grant-in-aid (Regulations) Act, 1988 (for short 'the Act'). In this case, it is not in dispute that having regard to teacher-pupil ratio, the post of Junior Assistant (un-aided) was sanctioned. As per the request of the petitioner, the District Educational Officer, Nalgonda, sent proposals for admission of the said post to grant-in-aid, to the second respondent, which were rejected on the sole ground that the appointment of the person working in the post of Junior Assistant was not approved by the competent authority.

6. It is to be seen that, under the scheme of the Act, an application has to be submitted to the respondents for admission of the post of Junior Assistant into grant-in-aid. The same has to be considered with reference to the eligibility criteria of the said post, but not with reference to the appointment of a particular individual, in an un-aided vacancy. As stated in the impugned order, if any person is appointed in an un-aided vacancy and such appointment is not approved, the same would be invalid, but, at the same time, the absorption of an un-aided post into grant-in-aid, cannot be rejected stating that the appointment of a person in that post is not approved by the competent authority. Hence, I am of the view that it is a fit case where the matter has to be considered afresh by the competent

authority.

7. Hence, the impugned memo dated 10-01-2005, issued by the first respondent, is set aside. The matter is remitted to the first respondent for fresh consideration and disposal. The first respondent is directed to place the proposals forwarded by the second respondent, Commissioner and Director of School Education by proceedings dated 29-11-2004, before the High Level Committee and pass appropriate orders basing on the recommendations of the said committee.

8. The Writ Petition is disposed of with the above directions. No costs.

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JUSTICE R. SUBHASH REDDY.

February 08, 2007
MRR